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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,927	08/31/2000	Theodore W. Meyers		4367
7590	10/20/2004		EXAMINER	
MARSHALL, O'TOOLE, GERSTEIN, MURRAY & BORUN 6300 SEARS TOWER 233 SOUTH WACKER DRIVE CHICAGO, IL 60606-6402			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Office Action Summary</i>	Application No.	Applicant(s)
	09/652,927	MEYERS, THEODORE W.
Examiner	Art Unit	
Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Statyus

1) Responsive to communication(s) filed on 11 August 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 and 15-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6 and 15-23 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 May 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: *attachment 1 and 2*.

DETAILED ACTION

1. This Office Action is in response to applicant's appeal brief filed on August 11, 2004.

Upon reconsideration in view of the appeal brief filed on August 11, 2004, PROSECUTION IS HEREBY REOPENED so that a new ground of rejection may be applied as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) Request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Objections

2. **Claims 1 and 20 is objected to because of the following informalities:**

- Claim 1 Line 6, change "greater than said diameter" as -greater than the diameter-.
- Claim 20 Line 3, change "zone of a septic tank when the tee is mounted at a septic tank outlet" to -zone of the septic tank when the tee is mounted at the septic tank outlet-.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1,4,6 and 19 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 901,545 to Morrison.

Regarding claim 1, Morrison discloses a tee (16) comprising a cylindrical main body portion (a, see attachment #1) defining a tubular opening adapted to receive a filter.

A cylindrical uppermost hub (above where a^5 is pointing in Figure 7, see attachment #1) is coaxially with the cylindrical main body portion. The uppermost hub includes an inner diameter greater than the diameter of the cylindrical main body portion.

An inlet/outlet port (a^3) is in communication with the tubular opening. The inlet/outlet port includes an inlet/outlet hub (26), located at an open end of the port, having a diameter sized to receive a pipe. The diameter of the inlet/outlet hub is greater than the diameter of the cylindrical main body portion. The inlet/outlet port is adaptable to receive a pipe (Figure 1).

As to claim 4, Morrison illustrates that the inlet/outlet port includes a sweep portion arcing upwardly from the cylindrical main body portion toward a ring defined

by the inlet/outlet hub. The sweep portion defines an opening in communication with the tubular opening and the inlet/outlet hub (Figure 1).

As to claim 6, Morrison discloses the use of a reducer (Figures 1 and 8).

As to claim 19, Morrison illustrates that the outlet opening of the inlet/outlet port is located along a length between the lowermost end and the uppermost hub, but near to the uppermost hub.

5. **Claims 1-5,19,21 and 23 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 3,633,943 to Ramm.

Regarding claims 1 and 23, Ramm discloses a tee comprising a cylindrical main body portion (2, see attachment #2) defining a tubular opening adapted to receive a filter.

A cylindrical uppermost hub (at 22 in Figure 1, see attachment #2) is coaxially with the cylindrical main body portion. The uppermost hub includes an inner diameter greater than the diameter of the cylindrical main body portion.

An inlet/outlet port (8) is in communication with the tubular opening. The inlet/outlet port includes an inlet/outlet hub (at 22 near 8, see attachment #2), located at an open end of the port, having a diameter sized to receive a pipe. The diameter of the inlet/outlet hub is greater than the diameter of the cylindrical main body portion. The inlet/outlet port is adaptable to receive a pipe (Figure 1).

As to claim 3, Ramm illustrates that the device further includes seams (at 22, Figure 2) coextending with the first and second ribs.

As to claim 4, Ramm illustrates that the inlet/outlet port includes a sweep portion arcing upwardly from the cylindrical main body portion toward a ring defined by the inlet/outlet hub. The sweep portion defines an opening in communication with the tubular opening and the inlet/outlet hub (Figure 1).

As to claims 2 and 21, Ramm discloses that the first and second ribs (at 22 and 36) extending outwardly from an outer wall of the elongated main body portion and the uppermost hub (Figure 3).

As to claim 19, Ramm illustrates that the outlet opening of the inlet/outlet port is located along a length between the lowermost end and the uppermost hub, but near to the uppermost hub.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 2,15,17,18,21,22 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 901,545 to Morrison in view of US Pat No 1,052,198 to Wyre.

Regarding claims 2,15,21 and 22, Morrison fails to disclose that the tee includes reinforcing ribs.

Wyre teaches that it is well known in the art to have metal pipes with reinforcing ribs (2 and 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have reinforcing ribs, as taught by Wyre, into a device as described by Morrison, in order to strength the pipe fitting.

As to claims 17 and 18, Morrison discloses that a pipe is received within the inlet/outlet port with a reducer bushing.

8. **Claim 6 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,633,943 to Ramm in view of US Pat No 901,545 to Morrison.

Ramm fails to disclose the use of a reducing bushing or reducer in the inlet/outlet port.

Morrison teaches that is known in the art to have a tee adapted to receive a pipe of a first or second outer diameter (by using a reducer as illustrated in Figure 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a device that helps to receive a first or a second outer diameter into the inlet/outlet hub, as taught by Morrison, into a tee as described by Ramm, in order to adapt a bigger and larger filter and to adapt different pipes with different outer diameters.

9. **Claim 16 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 901,545 to Morrison in view of US Pat No 1,052,198 to Wyre as applied to claim 15 above, and further in view of US Pat No 4,798,028 to Pinion.

Morrison, as modified by Wyre, fails to disclose an efficient filter inside the main body. Morrison device is capable of receiving a filter.

Pinion teaches that it is well known in the art to have a filter (15) located inside a main body (12) of a pipefitting (10).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have a filter, as taught by Pinion, into a device as described by Morrison, as modified by Wyre, in order to filter the fluid that flows in the pipe system.

10. **Claim 20 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 901,545 to Morrison in view of US Pat No 4,798,028 to Pinion.

Morrison fails to disclose an efficient filter inside the main body. Morrison device is capable of receiving a filter.

Pinion teaches that it is well known in the art to have a filter (15) located inside a main body (12) of a pipefitting (10).

It would be obvious to one having ordinary skill in the art at the time the invention was made to have a filter, as taught by Pinion, into a device as described by Morrison, in order to filter the fluid that flows in the pipe system.

Response to Arguments

11. In the appeal conference it was noted some informalities. For example, it was noted that claim 20 presents some informalities because the septic tank and the septic outlet were previously recited in claim 1.

Also, it was noted that Morrison and Ramm alone disclose the invention as claimed in claims 1,4,6 and 19 and in claims 1-5,19,21 and 23 respectively because

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the claims are claiming a tee, the fact that the tee is used in a septic tank environment is considered as intended use of the device.

As to claims 2,15,17,18,21,22, the claims are not considered as a combination and Morrison, as modified by Pinion, discloses the device as claimed.

As to the affidavits presented by the applicant, the affidavits were considered but are not persuasive to overcome any rejection. The applicant explains how the sales of his product "increase". However, the applicant fails to explain why the sales increase. Also, the applicant fails to demonstrate his invention with respect to other devices that are in the market. Therefore, the affidavits are not persuasive to overcome any rejection.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

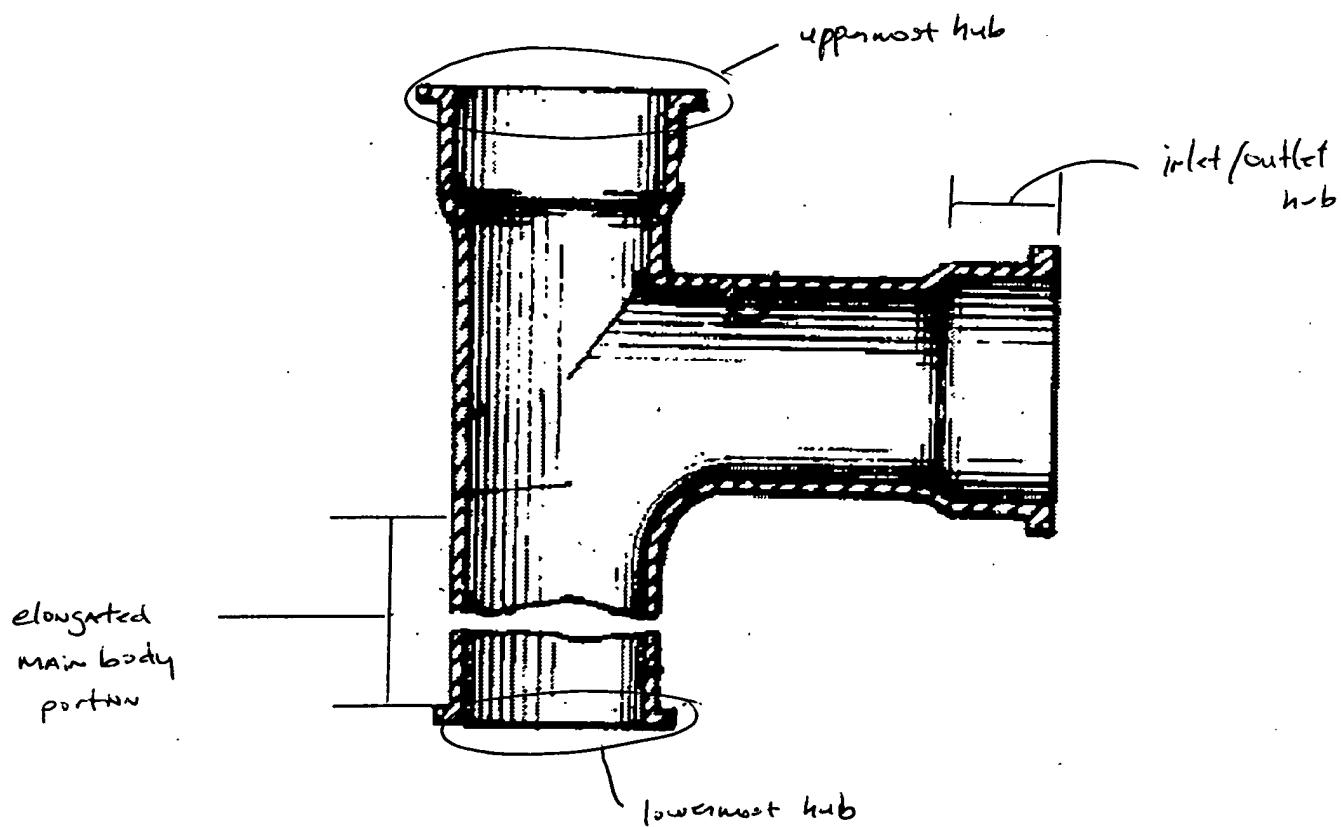
Carlos Lugo

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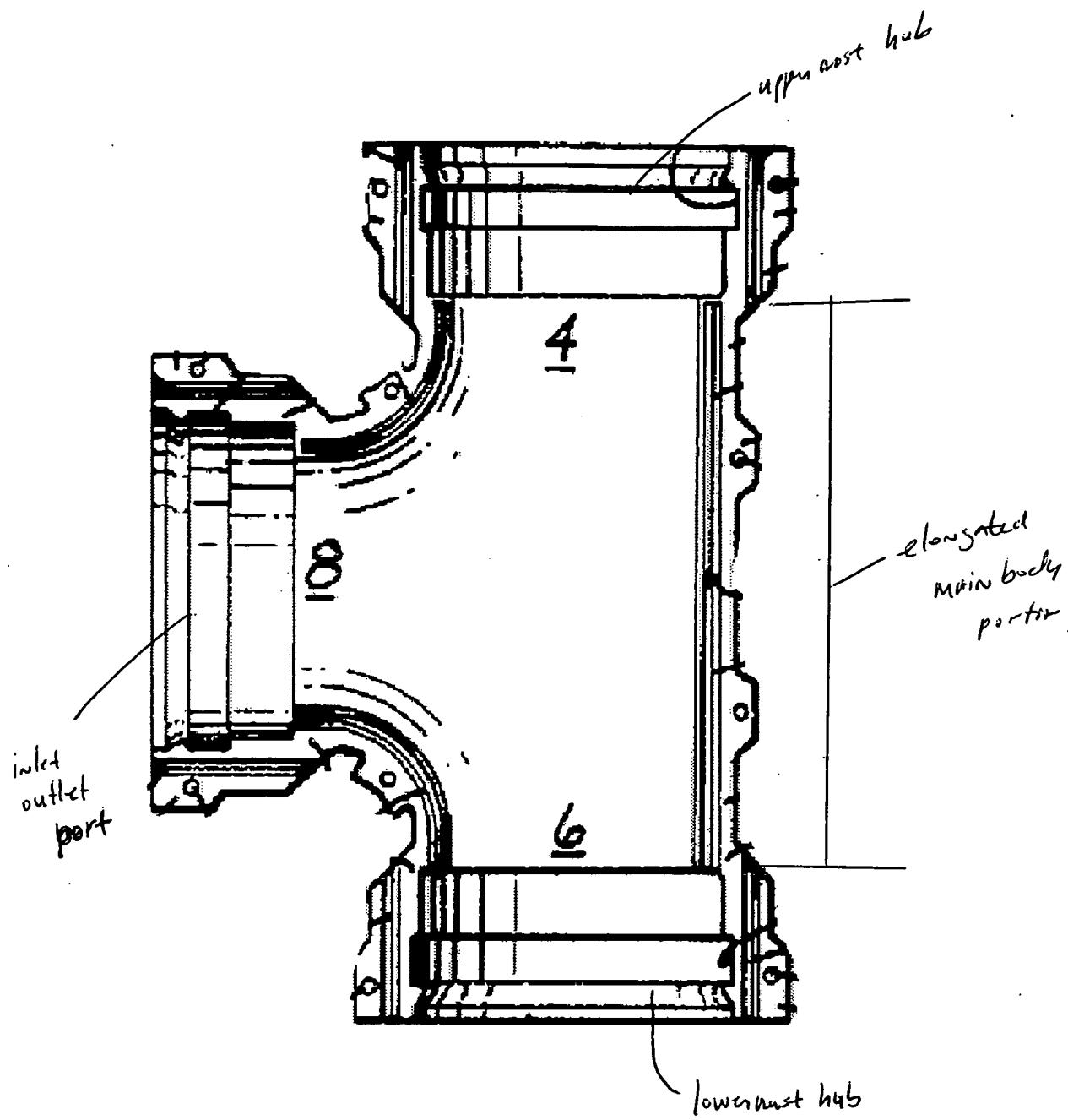
Oct. 15, 2004



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



Attachment # 1



Attachment #2